

JUDGES' ICWA CHECKLIST FOR

VOLUNTARY PLACEMENTS AND CUSTODY AGREEMENTS:

- _____ 1. Tribe has been properly notified:
 - _____ a. If parent or Indian custodian will not be able to have child returned upon demand: full notice given per 25 U.S.C. §1903(1)(i) & §1912]
- _____ 2. Parent has received proper notice per statute, if child will not be returned upon demand [25 U.S.C. §1903(1)(i) & §1912]
- _____ 3. Consent to placement [25 U.S.C. §1913]:
 - _____ a. Must not be given prior to, or within ten days after birth
 - _____ b. Must be in writing
 - _____ c. Must be recorded before a judge
- _____ 4. Content of consent document [44 Fed. Reg. 67593]:
 - _____ a. Child's name and birthdate
 - _____ b. Name of child's tribe and any tribal membership number or other identification of membership
 - _____ c. Name and address of consenting parent or Indian custodian
 - _____ d. Name and address of person or entity through whom placement was arranged
 - _____ e. Name and address of prospective foster parents, if known
- _____ 5. Findings to be made [25 U.S.C. §1913]:
 - _____ a. Terms and consequences of consent were fully explained to the parent or Indian custodian
 - _____ b. Terms and consequences of consent were fully understood by the parent or Indian custodian
 - _____ c. Parent or Indian custodian fully understands English, or the explanation of the terms and consequences was translated into their language

_____ 6. Withdrawal of consent:

_____ a. To foster care placement may be done at any time and the child shall be returned [25 U.S.C. §1913(b)]

_____ b. To termination of parental rights or adoption may be done at any time prior to entry of the decree and the child shall be returned [25 U.S.C. §1913(c)]

_____ (i). notarized statement of intent to withdraw consent should be filed with the court; clerk of courts should notify party through whom placement was arranged; and that party shall arrange return of child [44 Fed. Reg. 67594]

_____ c. After adoption, petition to vacate may be brought on grounds that consent was obtained through fraud or duress [25 U.S.C. §1913(d)]

_____ 7. Placement preferences have been followed (25 U.S.C. sec. 1915)